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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,287	04/14/2003	Werner Langbauer	CBZ-620	1124
7590 09/27/2004				
Stephen E Bondura Dority & Manning Post Office Box 1449 Greenville, SC 29602-1449		EXAMINER ALEXANDER, REGINALD		
		ART UNIT PAPER NUMBER		
		1761		

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/088,287	LANGBAUER, WERNER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Reginald L. Alexander	1761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 41-63 and 65-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 46-49, 60, 63, 65, 66, 70, 72 and 75 is/are allowed.
- 6) ☒ Claim(s) 41-45, 50-59, 61, 62, 67-69, 71, 73 and 74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 41, 42, 44, 45, 56-59 and 71 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohn.

There is disclosed in Cohn a beverage production device, comprising: a tank 12 for liquid; a screen basket 15 movably disposed in the tank; a sealing device 39 disposed about the circumference of the basket; and a drive system 60, 61 attached to the basket; wherein the basket is sized with respect to the tank such that a relatively small gap is defined between the basket and inside wall of the tank, the sealing device being disposed in the gap.

In regards to the movement of the basket out of the tank, such is functional and inherently taught in Cohn. It is clear in Cohn that the tank is sized with respect to the basket to allow the basket to move upwardly and downwardly therein. It is also apparent that the basket is at some point removed from the tank.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Howitt.

Howitt discloses means 38 to rotatably move an infusion basket within a tank. It would have been obvious to one skilled in the art to modify the basket drive means of Cohn with that taught by Howitt, in order to provide a rotating movement to the basket and improve the infusion process.

Claims 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Haley.

Haley discloses a screen basket having impermeable side walls and a permeable floor 29 and lid 26. It would have been obvious to one skilled in the art to substitute the basket of Cohn with that disclosed in Haley, in order to provide an alternative basket arrangement.

Claims 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Kessel.

Kessel discloses the use of a multi-chambered perforated support basket. It would have been obvious to one skilled in the art to substitute the basket of Cohn with that disclosed in Kessel, in order to provide an alternative basket arrangement.

In regards to the rotational movement of the basket, such is a functional recitation provided without any structure for performing said function.

Claims 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Knepler.

Knepler discloses the use of a programmable controller 24 to operate the brewing device. It would have been obvious to one skilled in the art to provide the device of Cohn with the controller disclosed in Knepler, in order to guide operation of the device and the various brewing steps.

Claims 67-69 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Moore.

Moore discloses the step of moving the basket to a position in the tank where it is out of contact with the beverage after infusion. It would have been obvious to one skilled in the art to modify the process of Cohn with that taught by Moore and remove the basket from the beverage after infusion, in order to cease the infusion process immediately after brewing.

In regards to claim 68 there appears to be no process step recited. In regards to claim 69 and 71, without any specifics as to how long the beverage is stored in the container it is clear that the prior art meets this step.

Claims 73 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Antonini.

Antonini discloses the use of a timer to monitor, display and signal the user of the brewing start and finish time. It would have been obvious to one skilled in the art to modify the process of Cohn with that taught by Antonini and monitor, display and signal the brewing time, in order to allow the user to be in constant awareness of the brewing process.

***Allowable Subject Matter***

Claims 41-52, 54-63, 65, 66, 70, 72 and 75 are allowed.

***Response to Arguments***


Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla  
September 23, 2004

  
Reginald L. Alexander  
Primary Examiner  
Art Unit 1761